

## ARTICLE I. IN GENERAL

### Sec. 11-1. Advertisements—Posting on public or semipublic property.

It shall be unlawful for any person to attach, place, post, paint, write, stamp, paste or in any manner affix or cause to be affixed any sign, advertisement, circular, bill or other matter upon any structure of a public or semipublic nature, including but not limited to lampposts, telegraph or telephone poles, electric light poles or supports, trees, fire hydrants, bridges or supports thereunder, pavements, sidewalks, buildings or any other structures or property belonging to the city. (Code 1965, § 18-1)

**State law references**—Unlawful posting of advertisements, G.S. 14-145; outdoor advertising control act, G.S. 136-126 et seq.

### Sec. 11-2. Same—Posting on private property without consent of owner.

It shall be unlawful for any person to attach, place, paint, write, stamp, post, paste or in any manner affix or cause to be affixed any sign, advertisement, circular, bill or other matter to any privately owned property, including but not limited to any house or part thereof, building, wall, fence or part thereof, post, tree or other structure, without first obtaining written permission of the owner or his authorized agent to do so. (Code 1965, § 18-2)

**State law reference**—Unlawful posting of advertisements, G.S. 14-145.

### Sec. 11-3. Same—Evidence in prosecution.

On the trial of any alleged violation of section 11-1 or 11-2, proof that a sign, advertisement, circular, bill or other matter was attached, placed, posted, painted, written, stamped, pasted or in any manner affixed on any place or structure referred to in such sections shall be prima facie evidence that such was done or caused to be done by the person whose product, services, activity or function was publicized thereon. (Code 1965, § 18-3)

### Sec. 11-4. Advertising by distribution of samples or printed matter.

It shall be unlawful for any person to advertise by the distribution of samples or printed matter within the city, except as provided in the annual license and privilege tax ordinance. (Code 1965, § 18-4)

### Sec. 11-5. Public solicitation and begging regulated.

#### (a) Definitions.

**Accosting:** approaching or speaking to an individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.

**Beg, solicit or panhandle:** use of the spoken, written, or printed word, or other acts as are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this ordinance, the word, "solicit," and its forms, includes begging and panhandling.

**Financial Institution:** any bank, industrial bank, credit union, or savings and loan.

**Forcing oneself upon the company of another.**

- (1) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication;
- (2) Blocking the passage of the individual solicited; or
- (3) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.

#### (b) Prohibited acts.

- (1) It shall be unlawful for any person to beg, solicit, or panhandle, as defined in subsection (a), above:
  - a. By accosting another, or by forcing oneself upon the company of another;



- b. Within 20 feet of the entrance to any financial institution, or any automatic teller machine;
  - c. At any outdoor dining area permitted pursuant to section 16-146, or outdoor merchandise area permitted pursuant to section 16-147, provided such areas are in active use at the time;
  - d. At any transit stop or taxi stand, or in a public transit vehicle;
  - e. While the person being solicited is standing in line waiting to be admitted to a commercial establishment;
  - f. By touching the person being solicited without that person's consent;
  - g. By blocking the path of a person being solicited or blocking the entrance or exit to any building or vehicle;
  - h. By or with the use of profane or abusive language, during the solicitation or following an unsuccessful solicitation;
  - i. By or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;
  - j. After dark, which shall mean one-half hour after sunset until one-half hour before sunrise, except in the manner permitted in high traffic zones;
  - k. While under the influence of alcohol or after having illegally used any controlled substance, as defined in the North Carolina Controlled Substance Act.
- (2) Additional restrictions applicable to high traffic zones:
- a. For purposes of this subsection (b)(2) only, the following definitions shall apply:

*Beg, solicit or panhandle.* The communication, by use of gestures or

spoken words, by one person or group of persons directed at another person or group of persons, of a request for the immediate contribution of money, food or goods, to the person or group making the communication, or to others. This definition shall not include transactions between family members or mutual acquaintances.

*High traffic zones.*

1. Zone 1: Within the area defined by a line drawn along the centerline of the following streets: starting at the intersection of Hilliard Avenue and Market Street, west along Hilliard Avenue to the intersection of Hilliard Avenue and French Broad Avenue; then north along French Broad Avenue to the intersection of French Broad Avenue and Haywood Street; then east Haywood Street to the intersection of Haywood Street and Montford Avenue; then north along Montford Avenue to the intersection of Montford Avenue and Cherry Street; then east along Cherry Street to the intersection of Cherry Street and Broadway Street; then south on Broadway Street to the intersection of Broadway Street and Woodfin Street; then east on Woodfin Street to the intersection of Woodfin Street and College Street; then south on Valley Street to the intersection of Valley Street and Marjorie Street; then west along Marjorie Street to the intersection of Marjorie Street and Davidson Street; then south on Davidson Street to the intersection of Davidson Street and Eagle Street; then west along Eagle Street to the intersection of

Eagle Street and Market Street; then south on Market Street to the point of beginning.

2. Zone 2: Within Biltmore Village Historic District.

- b. Prohibited acts. In addition to the restrictions set forth in section (b)(1), above, it shall be unlawful for any person to beg, solicit, or panhandle, as defined herein, within any high traffic zone.

(c) *Penalty.* A violation of this ordinance is a misdemeanor as set forth in North Carolina General Statute Section 14-4.

(Code 1965, § 18-51; Ord. No. 2000, § 1, 12-15-92; Ord. No. 2977, § 1a, 11-12-02; Ord. No. 3023, § 1, 5-13-03)

*State law reference*—Authority to prohibit or regulate begging, G.S. 160A-179.

**Sec. 11-6. Damaging or destroying property.**

It shall be unlawful for any person to mutilate, deface, tear down, injure or otherwise damage or destroy any property, real or personal, belonging to another, whether such property is privately or publicly owned.

(Code 1965, § 18-6)

*State law references*—Willful and wanton injury to real property, G.S. 14-127; willful and wanton injury to personal property, G.S. 14-160.

**Sec. 11-7. Discharge of firearms or weapons.**

No person shall shoot or discharge, within the corporate limits of the city, any firearm, gun, rifle, pistol, air rifle, spring gun or compressed air rifle or pistol or other similar device or weapon which impels or discharges with force any bullet, shot or pellet of any kind, including arrows with metallic tips or sharp tips of any nature, designed to penetrate and propelled by a bow or spring device. This section shall not apply to any law enforcement officer of any governmental agency or body charged with the duties of protecting life or property or enforcing laws and regulations while engaged in the performance of his official duty. This section shall not apply in defending one's self or property or the safety and property of others nor to a firing or archery range operated or super-

vised by an individual, club or organization for educational or sporting purposes, if such firing or archery range has first been inspected and approved by the police department.

(Code 1965, § 18-7; Ord. No. 1654, 10-6-87)

*State law references*—Authority to regulate or prohibit the discharge of firearms, G.S. 160A-189; authority to regulate pellet guns and similar devices, G.S. 160A-190.

**Sec. 11-8. Seizure of firearms or weapons.**

The chief of police or any member of the police department is hereby authorized to seize, hold and confiscate, subject to order of the court, any firearm, weapon, air rifle or similar device mentioned in section 11-7 which is shot or discharged within the city in violation of such section.

(Code 1965, § 18-8)

**Sec. 11-9. Profanity in public.**

No person shall engage in loud or boisterous cursing or swearing in any public place in the city.

(Code 1965, § 18-16)

*State law references*—Unlawful use of profane language on passenger trains, G.S. 14-195; using profane or indecent language on public highways, G.S. 14-197.

**Sec. 11-10. Wells and holes.**

No owner, occupant or tenant in possession of any lot, piece or parcel of ground within the city shall have, make or maintain on such lot, piece or parcel of ground any well, hole or other excavation more than three feet deep, unless the excavation is securely enclosed by railing or otherwise to keep persons or animals from falling into the excavation.

(Code 1965, § 18-21)

*State law references*—Leaving unused well open and exposed, G.S. 14-287; removal or destruction of road barriers, G.S. 136-26.